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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,804	08/04/2005	Aloys Wobben	970054.477USPC	6885
500	7590	11/14/2006	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 5400 SEATTLE, WA 98104			WIEHE, NATHANIEL EDWARD	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/516,804	Applicant(s) WOBBEN, ALOYS	
	Examiner Nathan Wiehe	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>08042005</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 4 August 2005 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

The disclosure is objected to because of the following informalities:

On page 2, lines 15-18 refer to the claims,

On page 4, line 17, "camber 11" should read --chamber "C"--,

On page 6, line 10, "realisationrealization" should read --realization--,

On page 12, line 15, "cladding 17" should read --cladding 19--, and

In the paragraph beginning on page 5, line 18 and continuing to page 6, on multiple occurrences "pod cladding 20" should read --pod cladding 19--,

Appropriate correction is required.

Claim Objections

Claim 12 is objected to because of the following informalities:

"(in the longitudinal direction)" is improper since it is unclear if the limitation weather or not the limitation is included in the claim. It is suggested that the parentheses be removed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-5,10,11,14 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 2,3,4,10,14 and 19 recites broad limitations and the claims also recites additional limitations which are a narrower statement of the range/limitation.

Claim 5 recites the limitation "said cross-section" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,9,16,17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Blakemore (6,951,443). Blakemore discloses a wind power installation having rotor blades (16,18,20) mounted to a hub (26). The hub (26) includes an outer surface, or cladding, containing non-integral rotor blade parts (28,30,32) fixedly connecting to the hub (Blakemore column 3, lines 50-61). The inner (28,30,32) and outer (16,18,20) blade portions constitute a two-part configuration in the root region with a separating line extending longitudinally.

In regard to claims 17 and 18, Blakemore teaches the use of a two-part rotor blade, but is silent as to the instillation and transportation method of rotor blades. The claimed phrases "fitted together only shortly before installation" (Claims 17) and "the parts of the rotor blade are separated during transport of the rotor blade" (Claim 18) are being treated as a product by process limitations; that is, that the rotor blade is of a two-piece construction. As set forth in MPEP 2113, product by process claims are NOT

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limited to the manipulations of the recited steps, only to the structure implied by the steps. Once a product appearing to be substantially the same or similar is found, a 35 U.S.C. 102/103 rejection may be made and the burden is shifted to applicant to show an unobvious difference. See MPEP 2113.

Thus, even though Blakemore is silent as to the process used transport and install the rotor blades, it appears that the product in Blakemore would be the same or similar as that claimed; especially since both applicant's product and the prior art product are of a two-part construction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schacle (4,408,958) in view of Fink (2,934,150). Schacle discloses a wind power installation (10) including rotor blades (16) mounted to a rotor hub (20). Schacle's blades have an increased-pressure side having a concave curvature and a reduced-pressure side provided with an almost straight portion. Schacle's blades are of a trapezoidal shape and are tapered from root to tip and regions of the root are tilted out of the main blade plane. Fink teaches the use of pressure-contoured hub cladding for propellers. Fink's hub includes non-integral blade portions (22) fixedly connected to the hub cladding. The profile of the part of the rotor blade which is provided on the hub

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cladding substantially corresponds to the profile of the rotor blade in the region near the hub and they are oriented to coincide with the nominal angle of attack of the blades (Fink column 2, lines 3-7). The two-part configuration of Fink provides a longitudinal separating line between the parts. Fink's invention improves the aerodynamics and reduces flow separation in the area connecting the hub and blades (Fink column 1, lines 62-65). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Schacle by including a non-integral blade part fixed to the hub cladding as taught by Fink in order to improve the aerodynamics and prevent flow separation in the area connecting the hub and the blades.

In regard to claims 17 and 18, the modified invention of Schacle teaches the use of a two-part rotor blade, but is silent as to the instillation and transportation method of rotor blades. The claimed phrases "fitted together only shortly before installation" (Claims 17) and "the parts of the rotor blade are separated during transport of the rotor blade" (Claim 18) are being treated as a product by process limitations; that is, that the rotor blade is of a two-piece construction. As set forth in MPEP 2113, product by process claims are NOT limited to the manipulations of the recited steps, only to the structure implied by the steps. Once a product appearing to be substantially the same or similar is found, a 35 U.S.C. 102/103 rejection may be made and the burden is shifted to applicant to show an unobvious difference. See MPEP 2113.

Thus, even though the modified invention of Schacle is silent as to the process used transport and install the rotor blades, it appears that the product in Schacle would

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be the same or similar as that claimed; especially since both applicant's product and the prior art product are of a two-part construction.

In regard to claims 2-4,10,11,14 and 19, as far as they are definite, Schale does not disclose the specific thickness, chamber, profile depth or length ratio as claimed. However, since applicant has not disclosed that having a blade including the specific dimensions solves any stated problem or is for any particular purpose above the fact that these dimensions produce a desired wind power installation output and it appears that the blades of Schale would perform equally well with the dimensions as claimed by applicant, it would have been an obvious matter of design choice to modify the blade of Schale by utilizing the specific dimensions as claimed for the purpose of producing a desired wind power installation output.

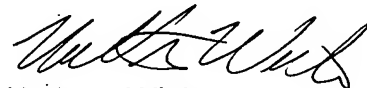
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Wiehe whose telephone number is (571)272-8648. The examiner can normally be reached on Mon.-Thur. and alternate Fri., 7am-4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571)272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan Wiehe
Examiner
Art Unit 3745



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11/13/06